

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D.C. 20554

ORIGINAL  
FILE  
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Federal Communications Commission  
Office of the Secretary

In the Matter of )  
)  
Petition For Rulemaking to ) RM-7913  
Modify The Regulatory Treatment of )  
COMSAT World Systems' Multi-Year )  
Fixed-Price Carrier-to-Carrier )  
Contract-Based Switched-Voice )  
Services )

To: The Commission

**COMMENTS OF  
AERONAUTICAL RADIO, INC.**

Pursuant to the Commission's Public Notice of March 5, 1992 (Report No. 1880), Aeronautical Radio, Inc. ("ARINC"), through undersigned counsel, submits these comments in the above-captioned proceeding. Because ARINC has entered into a fixed-price contract-based switched-voice and data services agreement with the World Systems Division of Communications Satellite Corporation ("COMSAT"), ARINC believes it is well-positioned to comment on COMSAT's request for a relaxed regulatory treatment in its provision of such services.

**I. INTRODUCTION**

At the outset, ARINC notes for the record that its agreement with COMSAT concerns INMARSAT-based aeronautical satellite services, not INTELSAT services. ARINC acknowledges that COMSAT's request is limited to INTELSAT services.

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COMSAT's justification for a relaxation in regulatory treatment is based on assertions of marketplace forces affecting the provision of certain INTELSAT services and the impact of those forces on COMSAT's pricing behavior. In this respect, ARINC believes its experience with COMSAT in the provision of INMARSAT multi-year fixed-price contract-based switched-voice and data services is directly applicable to consideration of COMSAT's provision of similar INTELSAT services.

## **II. SUMMARY OF COMSAT'S REQUEST**

On January 30, 1992, COMSAT petitioned the Commission to initiate a rulemaking proceeding for the purpose of modifying the Commission's regulatory treatment of COMSAT's provision of INTELSAT services to its high-volume, multi-year contract, switched-voice customers (hereafter "COMSAT Petition"). COMSAT seeks to have the Commission discontinue its current rate-based regulation of COMSAT's rates for a limited class of customers, and in lieu thereof to institute "price caps." COMSAT suggests that for these particular types of services, it should be treated similarly to AT&T and the local exchange carriers whose prices are subject to a price cap and whose rates can only be challenged for "substantial cause" as defined in the Commission's rules. Regulation of COMSAT's other INTELSAT services would remain unchanged.

COMSAT supports this request with a showing that undersea fiber optic cables are now deployed in major traffic routes, many of which are owned and operated by COMSAT's own customers for high volume INTELSAT switched traffic. In addition, COMSAT argues that the introduction of separate satellite systems has also added to competitive pressures. In all, COMSAT asserts that these developments justify the elimination of rate-based regulation and the establishment of new incentive-based regulation for a limited class of service. Under this new regulatory regime, COMSAT believes it would be encouraged to control expenses and to tailor capital investment to meet user requirements. Furthermore, COMSAT asserts that users would benefit because cost reductions would be passed on to users by way of rate reductions. COMSAT presumably believes that this hope of reduced rates for users justifies the adoption of reduced regulation for COMSAT.

**III. COMSAT'S PRICING BEHAVIOR WITH RESPECT TO  
INMARSAT SERVICES DOES NOT SUPPORT ITS REQUEST  
FOR RATE DEREGULATION**

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In 1989, ARINC and COMSAT entered into a multi-year fixed-price contract-based switched-voice and data services agreement. The only meaningful difference between the services COMSAT provides ARINC through this agreement and those which are the subject of the instant petition is that ARINC obtains INMARSAT and not INTELSAT services from COMSAT. In every other

respect, COMSAT's provision of services to ARINC is directly analogous to the factual basis COMSAT uses to support regulatory relaxation in the context of certain INTELSAT services. Pursuant to their multi-year agreement, COMSAT provides high-speed data, low-speed data and switched voice services to ARINC. ARINC, in turn, uses these services to meet the safety, operational and passenger telecommunications needs of the air transport industry.

1. A Competitive Marketplace Exists In The Provision Of INMARSAT Aeronautical Services.

Unlike INTELSAT services, where U.S. users must take service from COMSAT, in the INMARSAT context, users can choose to take international aeronautical services from any INMARSAT signatory. This is also true of INMARSAT maritime services, where INMARSAT signatories have long competed for international maritime traffic. Thus, unlike INTELSAT services which are the province of monopoly providers in their respective countries, INMARSAT services have always been competitively provided worldwide.

This worldwide competition is even more pronounced in the aeronautical services context. INMARSAT signatories provide services directly to airlines, private aircraft, and other users. They also supply INMARSAT services to competitive entities which provide aeronautical services exclusively to the

air transport industry -- ARINC and SITA.<sup>1/</sup> Thus, COMSAT clearly experiences intramodal competition in the provision of INMARSAT services.

2. This Open Marketplace For INMARSAT Services  
Has Not Affected COMSAT's Pricing  
Behavior.

The INMARSAT Council recently adopted reductions to INMARSAT user charges for aeronautical services. ARINC learned of this reduction because SITA informed its users it would reduce user charges for INMARSAT aeronautical services. SITA obtains INMARSAT aeronautical services through the French, Canadian and Australian Signatories to INMARSAT. Upon the recent reduction by INMARSAT, those signatories immediately reduced their rates to SITA, which in turn, reduced its rates to its members.

ARINC, upon learning of this reduction in INMARSAT user charges, requested that COMSAT also reduce its rates so that ARINC could pass these reductions to its users and thus continue to provide INMARSAT aeronautical services at competitive rates. Instead of passing along these cost savings to ARINC, COMSAT decided to retain its current rates, thereby

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<sup>1/</sup> The Société Internationale des Télécommunications Aéronautiques (SITA) competes head-on with ARINC in providing aeronautical telecommunications to the air transport industry overseas as well as in the United States.

increasing its profits from the reduced costs, and knowingly placing ARINC at a competitive disadvantage vis-a-vis SITA. Some of ARINC's member-users have already expressed concern with the discrepancy between ARINC and SITA rates, particularly for low- and high-gain data services which are used by airlines to communicate safety and operational messages. ARINC, as a non-profit operation, does not have its own profit margins from which to extract user charge reductions to match SITA. As a consequence of COMSAT's refusal to pass on to ARINC reductions in INMARSAT user charges, ARINC fears its user-members may migrate to SITA as the lower-priced provider.

3. COMSAT's INMARSAT Pricing Behavior Is  
Directly Applicable To Its Other Service  
Offerings.

COMSAT's Petition asks the Commission to eliminate rate-of-return regulation for certain INTELSAT services. Nonetheless, COMSAT's pricing of similar INMARSAT services, for which no rate-of-return has ever been established by the Commission, is very instructive of COMSAT's pricing behavior in the absence of rate-of-return proscriptions. Indeed, it may well serve as a fair barometer of what to expect if COMSAT were allowed to price without regard to the cost of providing a particular service.

**IV. A COMPREHENSIVE PROCEEDING IS PREFERABLE TO  
PIECEMEAL DEREGULATION**

In another recently-filed petition, COMSAT requested that the Commission eliminate certain structural separation requirements.<sup>2/</sup> In effect, COMSAT wishes to offer value-added and other "competitive" services as part of its other INMARSAT offerings, without structural separation from its provision of jurisdictional INMARSAT services. Without commenting on the merits of the latter petition, ARINC notes that COMSAT appears to have initiated a series of piecemeal deregulatory petitions. When viewed alone, any one of these may appear to be a reasonable request. The Commission however, should not engage in piecemeal deregulation of COMSAT without first considering the aggregate impact of such actions.

It has been at least 10 years since the Commission last undertook a comprehensive review of COMSAT's role with respect to INTELSAT and INMARSAT services. Since then, the entire international telecommunications marketplace where has undergone a major restructuring. As noted in COMSAT's Petition, undersea fiber optic cables have increased exponentially transoceanic telecommunications capacity. Separate systems have introduced competition in niche markets

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<sup>2/</sup> See Petition of Communication Satellite Corporation For Declaratory Ruling Or, In the Alternative, for Partial Waiver of Structural Separation Requirements; Filed November 27, 1991, File No. I-S-P-92-001.

(although not in the high-volume switched services market). Use of transborder services has increased significantly by both United States and foreign suppliers. Even more significantly, the INTELSAT Article XIV(d) and INMARSAT Article 8 procedures have been redefined and relaxed in light of new developments, and both organizations are currently reviewing the usefulness of maintaining these anticompetative provisions of their charters.

In view of these and many other competitive developments, and COMSAT's interest in at least two different changes in the manner in which it is regulated, perhaps it is time the Commission initiated a general proceeding to evaluate the manner in which it regulates the provision of INTELSAT and INMARSAT services, and the future role of COMSAT therein. Such comprehensive review should include a determination of an appropriate rate-of-return for COMSAT's INMARSAT services. Whatever course of action the Commission deems necessary to protect the public interest, and whatever scope of such a plenary review proceeding may be, it is clear that fundamental changes in COMSAT's regulatory structure should not be approached in a piecemeal or non-coordinated fashion.



**CONCLUSION**

COMSAT has petitioned the Commission to deregulate in large part the manner in which COMSAT provides INTELSAT services to its major users. ARINC's experience with COMSAT, as presented herein, must be considered by the Commission in determining whether "price cap" regulation will result in COMSAT's providing these services at fair and reasonable rates. Furthermore, if the Commission is inclined to adopt the proposals in the instant Petition, the public would be best served if the Commission undertook a comprehensive review of COMSAT's overall provision of INTELSAT and INMARSAT services with a view toward establishing a regulatory regime that is in line with today's marketplace for international satellite services.

Respectfully submitted,  
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April 6, 1992

**CERTIFICATE OF SERVICE**

I, Tamara L. Mariner, do hereby certify that a copy of the foregoing "Comments of Aeronautical Radio, Inc." was mailed, United States first-class postage prepaid, this 6th day of April 1992 to the following:

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